

**From:** Licata, Angela <[AngelaL@dep.nyc.gov](mailto:AngelaL@dep.nyc.gov)>

**Sent:** Thursday, April 29, 2021 7:23 PM

**To:** Mugdan, Walter <[Mugdan.Walter@epa.gov](mailto:Mugdan.Walter@epa.gov)>; Evangelista, Pat <[Evangelista.Pat@epa.gov](mailto:Evangelista.Pat@epa.gov)>

**Cc:** Licata, Angela <[AngelaL@dep.nyc.gov](mailto:AngelaL@dep.nyc.gov)>

**Subject:** Gowanus Canal: NYC Unilateral Order

Walter, Pat,

I hope this email finds you well. We had our conference this morning with EPA and DOJ on the pending Unilateral Order. Would you be willing to schedule a brief call with me either tomorrow, or Monday to discuss serious issues that were raised today? I understand that Kate (I did not note her last name) will be discussing with you and I would like to share our perspective. Specifically, I want to touch upon certain ambiguous requirements that we fear will lead to significant compliance issues. Ultimately, we recommended today that we have a technical workshop to clarify certain items. I realize this delays issuing the order, but it will be well worth it if it avoids unnecessary conflicts.

Furthermore, I am troubled by these statements by Brian Carr at the CAG meeting earlier this week. I have paraphrased from the video that I have attached so you can see and hear for yourselves.

- Stated that EPA built the order around the schedule in the DEIS, specifically the DEIS, figure 11-4, which says tanks will be done 2028. These are assumptions used for planning purposes and show the overlap of tank construction to develop a reasonable worst case scenario of impacts on the environment, such as traffic, air and noise. These are routine practices when doing an EIS. The statement seems to inform the public that is why EPA choose earlier dates than originally proposed.
- Stated that the City proposed certain people on the EPA team shouldn't be working on this project and that these are not unimportant facts when determining the City's compliance and penalties. This seems very vindictive, personnel and unprofessional. As you may recall the City's Law Department objected when they learned that Mr. Carr shared our Draft Order on Consent for the RH034 CSO Tank with National Grid. (See video at 44:20)
- Stated that DOJ is playing an increased role in meetings with NYC, and taking enforcement action against the City if necessary. Discussion around the \$60K per day fine. Brian clarified that is \$60K per day per violation for ~5 years.
- Stated that the City has not contributed to the in canal remedy even though he knows we have offered settlement funds to Grid and we have paid allocated costs for the design. (See video at 47:29)

[4/27/21 Gowanus CAG Meeting on Vimeo](#)

Thanks for your consideration,

Angela